3. Laws of the Family and the Clan

614 1. It is forbidden to marry a person belonging to the same umulyango, whatever the degree [of relationship]. Only the Abanyiginya, the clan from which the kings come, may marry [11] within their [own] inzu (1) and a fortiori into the other imilyango.

1. The reason for this endogamy must be sought in the fact that, according to legend, Kigwa married his sister Nyampundu.

However, marriage is forbidden with the Abatshyaba, the Abungura, and the Abakomankali. They usually marry the Abega.

The Abega (the family providing the queens), the Abagesera, the Abakono, the Abaha, and the Abasinga may not marry within their [own] umulyango nor into the other inzu. They are allowed to marry the Abunguru and Abakomankali, but not the Abatshyaba.

[426] [672] 2. The active and passive solidarity [joint and separate liability] in the matter of debts exists only on the paternal side (iwabo wa se) and not in the mother's umulyango (iwabo wa nyina).

The same is true in penal matters unless it is a case of a blood debt.

4. Table of Names Indicating Relationship through Kinship and Marriage

601 Those who are members of the same umulyango are called abagil'ichyobahuriycho, abagil' ichyobapfana, or, and it is the most frequently used and most precise term, abafit'isano.

Husband: umugabo
Wife: umugore
The husband of two wives: umugabo z'ishyali
One of the wives speaking of the other: umukeba wa njye
The husband speaking of one or the other [of the wives]: umukeba we

Son:
1) When the mother speaks: umuhungu wa njye
2) When another wife of the father speaks: umuhungu wa mukeba wa njye or umuhungu w'umugabo wa njye

428 Gifts (kugabira, to make a donation) made by the father to one of his sons, called inkazibiti, if they consist of cows, remain the property of the receiver, except in the case of unworthiness such as marked disrespect, repeated disobedience, etc. (kunyaga, to take back).

[672] [426] The active as well as the passive obligations are passed on to the heirs. If they are unable to pay a debt, the descendants of the deceased in direct line -- and only they -- are required to work one or two days a week for the benefit of the creditor's heirs, whether sons or even brothers, until the debt is completely wiped out.

4. Transmission of Property

The property is assigned to the heirs two months after death among the Batutsi, one month after among the Bahutu. However, the tools and objects may be used immediately. [63]

The son who is cursed by his father (igitshibwa or ikivume) must make restitution for everything he has received from him (inkazibiti, indemano); he is obliged to go far away all alone, without his wife or his children, abandoning all his belongings.

To clarify the mechanism of the transmission of property, we will choose four types of inheritance that commonly arise and make a diagram of the four cases.

Case 1. Inheritance of a Rich Mututsi(Provincial Chief or Umugaragu of the Mwami)

Nyirimigabo, chief of a province, dies, leaving five sons born of two wives. These are:

Bihutu, son of Mujijima, married
Nyagatoma, son of Mujijima, married
Nturo, son of Nyirampunga, not yet married
Rusagara, son of Mujijima, still a child
Mahira, son of Mujijima, still a child

On the death of his father, Nturo, the third son, becomes head of the urugo rwa se.

426 by his son, his daughter, or his daughter-in-law, and possibly an umugaragu. In the past, if a debtor fled in order to avoid his obligations, the creditor had the right to seize his cattle, [82] his banana plantations, and even his hut. However, in this case, the children could keep their father's property on the condition of agreeing to work for the creditor until the debt was fully paid.

Sometimes a patron pays for his client if the latter has only a storehouse of provisions and if he needs the help of his family to work for his shebuja. If the umugaragu dies, his son takes his place. The obligation thus passes to the descendants until it is fulfilled.

On the other hand, the creditor's brother or son can act in the place of their relatives (1).

1. Laws of the Family and of the Clan, p. 8.

574 Hospitality.

The duty of hospitality is sacred to the Banyarwanda. Even a Mututsi will never refuse a Muhutu either ichumbi (lodging) or izimano (wood, water, and food). A proverb says; "Uwubaka wese yubakira abu Mwami (2), and whoever did not grant food and lodging

2. "Whoever builds (a house) does it for the people of the Mwami," which means that his house must be open to all the king's subjects.

to a traveler would be given the name of umugome (bad); he would be Uwanga Umwami (an enemy of the Mwami).

Civil responsibility.

672 Civil responsibility does not exist. The parents themselves however, repair any damage done by their children.

SECTION V. GOVERNMENT AND ADMINISTRATION

1. Nationality

563 The Munyarwanda people include the Batutsi, the Bahutu, and the Batwa. The Mututsi aristocracy of Hamite origin dominates

689 Rain makers (abavubyi) proved guilty of imposture (3) were

> 3. In spite of this terrible punishment the rain makers continued to ply their dangerous but lucrative trade.

drowned in Lake Mugessera.

684 Unmarried girls found to be pregnant suffered the same fate.

7. Unintentional Homicide

682 It sometimes happens that a beater or a hunter hidden in thick shrubbery is confused with the game or a wild animal and is killed by an arrow. These accidents are regulated in the following way:

If an arrow, after wounding an animal, kills a man, the shooter's responsibility is not involved.

If an arrow intended for an animal misses its target and kills a man who has indicated his presence, [114] the clumsy shooter is considered a murderer and the right of revenge is granted the victim's family. However, if the murderer can prove that the victim gave no signal, he is relieved of responsibility. He can also plead not guilty before the tribunal of the provincial chief or of the king by pointing out, with the help of witnesses, that because of the cries and many signals set off at the same time, he was unable to distinguish his victim's warning whistle, or that the latter moved after having given the signal agreed upon.

If the plaintif's statements are accepted, the tribunal declares that the victim has perished by reason of his own imprudence or of an accident for which the killer cannot be held responsible, and the latter is definitely exonerated.

8. Imputability and Responsibility

● 672 Except in a case where the guilty one and the victim are of different social ranks, the seriousness of the punishment corresponds ne varietur to a determined offense, and attenuating or aggravating

672 circumstances are not taken into account, except in the case of a theft of provisions, when the judge must make sure whether the motive for the crime was hunger or fraudulent intention.

681 Children who commit an offense are whipped. Insane criminals are shut up and shackled.

682 Striking back is considered legitimate in the case of an unjust attack. In the past, if the aggressor was killed, the individual who had legitimately defended himself asked for the Mwami's intervention to stop reprisals by the family of the author of the criminal attempt. The king then forbade the exercise of private vengeance.

[115] 9. Prescription

681 Prescription of the punishment as well as that of public action is unknown in Ruanda's common law.

CHAPTER II. PROCEDURE (1)

692 1. Today, with the exception of crimes such as the abduction of cattle and private disputes which are in the cognizance of native tribunals, penal cases in which natives are involved are judged by European courts. The Belgian government has maintained, almost entirely, the native judicial organization in civil affairs. (Cf. J. Vanhove, Les Juridictions indigènes au Ruanda [Native Jurisdiction in Ruanda], Revue Congo, July, 1939).

1. The Various Degrees of Jurisdiction

Usually the parties first attempt to settle their dispute amicably before appealing to the jurisdiction of the hill chief (2).

2. Uruja kujya ibgami rubanza mu bagabo, that is to say literally, "the palaver that

357 like a member of the family (No. 19, p. 13). The adopted
597 person does the work around the house, tends the cattle, and
592 tills the fields, but he cannot acquire any property. If he wishes to give up his job and offer his services to another master, he may do so at any time, but the former master has so many indirect means at his disposal to force the servant to stay that most of those who have themselves adopted spend the rest of their lives with the same master.

592 Thus, the circle of dependents or retainers of any prosper-
554 ous and influential Murundi consists of these domestic servants,
573 of impoverished relatives and parasitic friends, fortune-hunting flatterers, and economic and political dependents of all sorts. Every day they pay homage to him in his kraal and accompany him wherever he goes. The greater the master's reputation, the larger is his entourage. It is rare that one sees a Mutussi of high status walking with an entourage of less than a dozen persons and often with as many as 20 to 30. In Urundi the entourage is called mafuatano; in Ruanda where the same institution exists it is referred to as bagaragu.

681 Debt slavery does not exist in Urundi. The Barundi, how-
[561] ever, have a great variety of very drastic punishments (ikihano) for violations of the law causing damage to life, limb, and property. In most cases the guilty party or his relatives or clan may atone for the misdemeanor or crime by a smaller or larger payment in the form of produce, cattle, salt, pearls, iron, etc. The amount is determined by the mutwale who acts as the judge (p. 94). If it is a case of a serious crime, manslaughter, murder,
628 or a serious injury, the kin group or clan vendetta (see p. 105)
672 becomes operative; this is done with the cooperation of the au-
681 thorities. The injured party or, if he has been killed, his kin group attempts to seize the wrongdoer by any means at their disposal. If the latter takes refuge in a neighboring province beyond the avenging arm of the injured kin group, an attempt will be made to catch one or several of his wives, children, brothers or sisters, close relatives, or members of his clan in his place. The captive is bound and locked up until his family obtains his freedom by paying a large amount of ransom money. This is forthcoming

628 672 681 in most cases. However, if the ransom is not paid, the members of the injured group, with the consent of the mutwale, proceed to execute the victim. They take the captive to a remote place and first cut off his hands, then his feet, and eventually also the ears, nose, and tongue. Then the unfortunate victim is nailed to the ground by piercing four poles through his arms and thighs; there he finally receives the death blow through his chest (No. 19, p. 472). Another method of execution is to drive a sharp pole through his anus into his body up to his throat. The body is then exhibited in a public place. The vendetta takes similar forms among the other Bahima, down to the far south in Ufipa (No. 47, pp. 108-111). Stealing cattle and witchcraft are punished in the same cruel manner in Urundi.

762 [98] Persons intending to commit suicide, who are not by any means rare either in Urundi or Ruanda, usually kill themselves by hanging or drowning.

695 It appears that the oath (indahiro), the invocation of the deity, the manes, or the king for the purpose of affirming a statement, is not permitted as a legal device among the Barundi who, incidentally, "use oaths, curses, sorcery, lies, or trickery" copiously. On the other hand, a judge frequently inflicts the ordeal on the accused, especially if it is a case where he has charged with witchcraft and sorcery (No. 19, p. 405). Most often this takes the form of the spear test. It consists of stabbing the accused person's arm with a hot spear point. If the blood gushes out, he is judged guilty; if not, he is considered innocent. The water test is applied by making the accused place his hand into a pot of boiling water. If his hand is scalded, he is considered guilty, otherwise, not. Also, under certain conditions, the poison test is used, a custom found all over Africa. Of course, there exist all kinds of methods designed to make the ordeal come out correctly, like greasing or powdering one's skin, using counter-poisons, etc.

791 [198] or howling. A special spirit language is also used. Usually they fall into a religious ecstasy after consuming copious quantities of beer, and the spirit himself [124] will begin to speak through them and utter prophesies and oracles. They are [672] not responsible for anything they do while they are in this spiritualistic-mediumistic state, even if they commit the worst violations of law and good manners (No. 39, p. 100). Those who are possessed make liberal use of this immunity, and one may very well consider this one of the chief motives for the whole institution of the imandwa cult.

In Unjoro the medicine men are also called abandwa. They "practice magic by killing animals or using certain herbs" (No. 9, p. 377).

Through the writings of A. Vix and B. Struck (Nos. 34 and 36) and Rehse (No. 31, pp. 107, 132), we have more precise knowledge from Kisiba of these persons who are called wabandwa and each of whom is possessed by a specific god. There, too, they differ depending on the nature of their god or demon, but all of them display their power "in hysterical fits caused by auto-suggestion." One of them may be an expert at making rain, another at curing the plague, a third may be proficient in agricultural matters, a fourth in the curing of cattle, etc. When the spirit seizes them, these divinely blessed persons put on a leopard skin, which the chief furnishes them, and a fur cap. Then they hang amulets from their necks and dance, holding long sticks and gourd rattles (Plate 54). However, they are not organized in a society.

794 515 In contrast, the ababandwa in Ruanda form a religious cooperative or fraternity, and there are suggestions of this in Urundi too. The people in question are not the divinely possessed priests (kiranga) nor the magicians and medicine men (abafumu) to whom we referred above, but pious men who dedicate their lives to the god out of concern for their earthly well-being and for the future salvation of their souls. They are all organized in a fraternity, a cult community, bound by solemn ceremonies, and they offer their sacrifices jointly.

Van der Burgt does not differentiate between the ababandwa, the wachwesi, the iviranga, the ivisjego, etc.